

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA	:	
	:	
	:	
v.	:	CRIMINAL ACTION NO.
	:	1:10-CR-00035-01-RWS
MARCIAL VILLAVERDE-	:	
LEYVA, a/k/a Marcial Villa	:	
Verde-Leyva	:	
	:	
Defendant.	:	

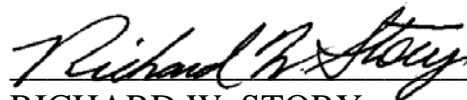
ORDER

This case is before the Court for consideration the Report and Recommendation [82] of Magistrate Judge Alan J. Baverman. After reviewing the Report and Recommendation, Defendant Condonozo's Objections [83], and Defendant Villaverde-Leyva's Objections [87] the Report and Recommendation is received with approval and adopted as the Opinion and Order of this Court as to all Motions except Defendant Villaverde-Leyva's Motion to Sever [34]. Accordingly, Defendant Villaverde-Leyva's Motion to Suppress Statements [31], Motion to Suppress Evidence and Statements [33],

Motion to Suppress Evidence and Statements (Rule 404(b)) [40] and Supplemental Motion to Suppress Evidence and Statements [41] are **DENIED**.

In the Report and Recommendation, Judge Baverman recommends denying Defendant Villaverde-Leyva's Motion to Sever [34]. The Government proposed redactions to address the issues raised by Defendant Villaverde-Leyva. Judge Baverman found that the proposed redactions would resolve any Bruton issues. The Court agrees with and adopts Judge Baverman's findings in this regard. However, Defendant Condonozo asserts that the redactions will deny him exculpatory statements that he made. In order to apprise the Court of the effect of the redactions on his defense, counsel for Defendant Condonozo has offered to make an *in camera* report to the Court concerning the defense. See Defendant Condonozo's Response [75] at 1, n.2. In light of this assertion by Defendant Condonozo, the Court will reserve ruling on the Motion to Sever until it is determined whether both Defendants will proceed to trial. In the event that both Defendants proceed to trial, the Court will conduct an *in camera* hearing with counsel for Defendant Condonozo to make a determination regarding the effect of redactions on the presentation of Condonozo's defense.

SO ORDERED this 14th day of January, 2011.

A handwritten signature in black ink, appearing to read "Richard W. Story", is written over a horizontal line.

RICHARD W. STORY
UNITED STATES DISTRICT JUDGE